



Commonwealth of Massachusetts
**DEPARTMENT OF HOUSING &
COMMUNITY DEVELOPMENT**

Deval L. Patrick, Governor ♦ Timothy P. Murray, Lt. Governor ♦ Tina Brooks,
Undersecretary

RELOCATION ASSISTANCE ADVISORY BULLETIN

SUBJECT: Actions Triggering MGL Chapter 79A Displacement

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1. Background

MGL Chapter 79A addresses the matter of relocation assistance and payments to persons considered "displaced". The purpose of this advisory bulletin is to provide guidance regarding actions that may cause a person to be considered displaced under MGL Chapter 79A.

2. General

MGL Chapter 79A is triggered in situations where a public agency (or any person) authorized to take property by eminent domain causes the displacement of legal occupants by either acquiring real property or issuing a written order to vacate for purposes of rehabilitation, demolition, or other improvements. This matter is addressed in MGL Chapter 79A, Section 3, which states the following:

"Any public agency, or person authorized to take by eminent domain, including corporations established under the provisions of chapter one hundred and twenty-one A, shall provide relocation assistance and payments under this act upon undertaking a project which results in displacement of occupants by the acquisition of real property or by the issuing of a written order to vacate for purposes of rehabilitation, demolition, or other improvements."

3. Definition of Terms

MGL Chapter 79A, Section 3 includes several terms that must be defined in order to understand its scope. Specifically, consider the following:

- a. **"Public Agency"** The term public agency is defined in MGL Chapter 79A, Section 1 as "any

department, agency, board, commission, authority, or other instrumentality of the commonwealth or of a political subdivision of the commonwealth; or of two or more subdivisions thereof. This term includes municipal agencies, state agencies, and authorities. In order for public agencies to come under the scope of MGL Chapter 79A, however, such agencies must be authorized to take property by eminent domain.

- b. **"Project"** MGL Chapter 79A does not include a definition of a project. However, the definition of "project" accepted by this office is as follows: "any activity or series of activities undertaken by a public agency or with financial assistance from a public agency received or anticipated to be received in any phase of an undertaking in accordance with the funding agency guidelines."
- c. **"Acquisition"** As defined in MGL Chapter 79A, acquisition means "the taking of real property by eminent domain, negotiated sale, or other means by or for any public agency, or by any person or agency authorized to take by eminent domain, or by a corporation established under the provisions of chapter one hundred and twenty-one A." *It is important to note that property does not need to be acquired by eminent domain to meet this definition. The fact to consider is if the public agency (or person) undertaking the project is authorized to take by eminent domain.*
- d. **"Displacement"** Generally, a person is considered "displaced" who moves from real property or moves personal property from real property as a result of the acquisition of such property or the receipt of a written order to vacate for a project or program undertaken by an agency or person required to provide relocation assistance. There are specific exceptions and criteria used to determine if a person is actually considered "displaced", including provisions for property that is acquired voluntarily. Determining if a person is displaced will be addressed separately from this advisory bulletin.

4. Examples of Projects Causing Displacement

The following is a list of some of the types of projects that have recently triggered the requirements of MGL Chapter 79A. Whether or not such projects actually cause displacement of occupants depends entirely upon circumstances particular to the project. **THIS IS NOT AN ALL INCLUSIVE LIST OF PROJECTS THAT CAUSE DISPLACEMENT.**

- a. Court construction and expansion
- b. Urban Renewal
- c. School construction and expansion
- d. Public parking facilities
- e. Transportation improvements
- f. Mass Transit improvements
- g. Public Parks
- h. Open space initiatives
- i. Hazard mitigation projects
- j. Watershed/environmental protection initiatives
- k. Expansion of higher educational facilities

- l. Fire and police construction and expansion
- m. Library construction and expansion
- n. Housing initiatives
- o. Miscellaneous public facilities (i.e., skating rinks, convention center, etc.)

5. Issuance of Vacate Notices

As described in paragraph 2 of this advisory bulletin, the issuance of a notice to vacate by a public agency or person authorized to take property by eminent domain can trigger the requirements of MGL Chapter 79A without any associated property acquisition, if the agency is issuing the vacate notice in connection with rehabilitation, demolition, or other improvement for a project. Among those occupants in receipt of such a vacate notice who would not be considered displaced by such action, however, include any person who entered into occupancy of the property after the property has been acquired by an agency for the project which is necessitating the issuance of the vacate notice and any person who is in unlawful occupancy of the property before the agency initiates negotiations to acquire the property. (See 760 CMR 27.01(5) for definitions of displaced persons and initiation of negotiations). Generally, this requirement has particular ramifications in situations where public agencies enter into lease agreements with private entities.

6. Determinations by the Bureau of Relocation

The Bureau of Relocation will provide advice and assistance to any agency or person seeking to determine if they are engaged in an activity that may result in displacement. Upon request, written determinations will be provided regarding such matters. Any public agency unsure if they are undertaking an activity that may cause displacement is encouraged to contact the Bureau.